

Articulation

A Guide to Resources in the Law Library

- **Motion for Articulation:** "A motion seeking . . . an articulation or further articulation of the decision of the trial court shall be called a motion for . . . articulation CONN. PRACTICE BOOK § 66-5 (rev. 2004).
- "It is well settled that [a]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification. . . . [P]roper utilization of the motion for articulation serves to dispel any . . . ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal. . . . The . . . failure to seek an articulation of the trial court's decision to clarify the aforementioned issues and to preserve them properly for appeal leaves this court without the ability to engage in a meaningful review.' (Citation omitted; internal quotation marks omitted.) *Alliance Partners, Inc. v. Oxford Health Plans, Inc.*, 263 Conn. 191, 204, 819 A.2d 227 (2003); see also Practice Book §§ 61-10 and 66-5." J.K. Scanlan Co. v. Construction Group, Inc., 80 Conn. App. 345, 352, 835 A.2d 79 (2003).
- "Where the factual or legal basis of a trial court's decision is unclear, ambiguous, incomplete or the court has failed to state any basis for its decision, this court may remand the case, pursuant to Practice Book § 60-5, for further articulation of the basis of the trial court's decision." Housing Authority v. Charter Oak Terrace/Rice Heights Health Center, 82 Conn. App. 18, 24, 842 A.2d 601 (2004).
- "An appellant may seek to remedy any ambiguities or deficiencies in a trial court's decision by filing a motion for articulation as provided in Practice Book § 66-5." American Honda Finance Corp. v. Johnson, 80 Conn. App. 164, 168, 834 A.2d 59 (2003)
- **Motion for review:** "Any party aggrieved by the action of the trial judge as regards rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice of the order sought to be reviewed, make a written motion for review to the court, to be filed with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper." CONN. PRACTICE BOOK § 66-7 (rev. 2004)

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Section 1

Motion for Articulation

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to the postjudgment motion for articulation.
- SEE ALSO:**
- Motion for Review
- DEFINITIONS:**
- **Motion for Articulation:** "A motion seeking . . . an articulation or further articulation of the decision of the trial court shall be called a motion for . . . articulation CONN. PRACTICE BOOK § 66-5 (rev. 2002).
 - **Appropriateness:** "An articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification." *Miller v. Kirshner*, 225 Conn. 185, 208, 621 A.2d 1326 (1993).
 - "[P]roper utilization of the motion for articulation serves to dispel any such ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal." *Barnes v. Barnes*, 190 Conn. 491, 494, 460 A.2d 1302 (1983).
 - "An articulation, however, is not an opportunity for a trial court to substitute a new decision [or] to change the reasoning or basis of a prior decision." [internal quotes omitted]. *Miller v. Kirshner*, 225 Conn. 185, 208, 621 A.2d 1326 (1993).
- COURT RULES:**
- CONN. PRACTICE BOOK (2004 ed.).
 - § 60-5. Review by the Court; Plain Error; Preservation of Claims
 - § 66-5. Motion for rectification; Motion for articulation
 - § 66-7. Motion for review of motion for rectification of appeal or articulation
- OFFICIAL COMMENTS:**
- See [Table 2](#): Official Commentary and Histories
- FORMS:**
- MARY ELLEN WYNN AND ELLEN B. LUBELL, HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER (1991).
Motion for articulation, Form No. XVII-A-2, p. 250.
- RECORDS & BRIEFS:**
- *Motion For Articulation*, CONNECTICUT SUPREME COURT RECORDS AND BRIEFS (December 1992), *Keystone Insurance Co. v. Raffile*.
 - *Motion For Articulation*, CONNECTICUT SUPREME COURT RECORDS AND BRIEFS (February 1998), *Bornemann v. Bornemann*, 245 Conn. 508, 752 A.2d 978 (1998). Memorandum of decision on this motion for articulation.
- CASES:**
- *Wallenta v. Moscovitz*, 81 Conn. App. 213, 230, 839 A.2d 641 (2004). "It is well established that [i]t is the appellant's burden to provide an adequate record for review. . . . It is, therefore, the responsibility of the appellant to

move for an articulation or rectification of the record where the trial court has failed to state the basis of a decision . . . to clarify the legal basis of a ruling . . . or to ask the trial judge to rule on an overlooked matter. . . . In the absence of any such attempts, we decline to review this issue.’ (Internal quotation marks omitted.) *Schoonmaker v. Lawrence Brunoli, Inc.*, 265 Conn. 210, 232, 828 A.2d 64 (2003); see also Practice Book §§ 60-5 and 66-5.”

- *Ceslik v. Winer*, 62 Conn. App. 650, 652, 772 A.2d 655 (2001). "Further, this court has held that the responsibility that arises out of Practice Book § 61-10 includes moving for articulation when the trial court has failed to state the basis of a decision . . . [or when] the legal basis of a ruling is unclear." [internal quotes omitted].
- *Bartomeli v. Bartomeli*, 65 Conn. App. 408, 417, 783 A.2d 1050 (2001). "Where the factual or legal basis of the trial court's ruling is unclear, the appellant should seek articulation pursuant to Practice Book § [66-5]. . . . [I]n the absence of a motion for articulation, [we] assume that the trial court acted properly." (Citations omitted; internal quotation marks omitted) *Fitzgerald v. Fitzgerald*, 61 Conn. App. 162, 163-64, 763 A.2d 669 (2000). Here, because there is no articulation of the basis for the court's ruling, we assume that the trial court acted properly. We therefore decline to review the defendants' claim."
- *Baughner v. Baughner*, 63 Conn. App. 59, 72, 774 A.2d 1089 (2001). "The defendant did not file a motion for articulation. The record before us, therefore, provides no basis for us to disaffirm the trial court's decision."
- *Miller v. Kirshner*, 225 Conn. 185, 208, 621 A.2d 1326 (1993) "An articulation, however, is not an opportunity for a trial court to substitute a new decision [or] to change the reasoning or basis of a prior decision." [internal quotes omitted].
- *Walton v. New Hartford*, 223 Conn. 155, 164-165, 612 A.2d 1153 (1992). "We have repeatedly stated that it is the appellant's responsibility to provide an adequate record for review. See Practice Book 4061 [now § 66-5] In the absence of such action by the Parsons, we must presume that the trial court considered all the facts before it and applied the appropriate legal standards to those facts."
- *Eichman v. J & J Building Co.*, 216 Conn. 443, 458, 582 A.2d 182 (1990). "Although a trial court may not alter its initial findings by way of a further articulation . . . we do not regard the court's supplemental memorandum of decision as having done so. In view of that supplemental decision, we conclude that the plaintiff has not carried her appellate burden of establishing that the error of the trial court was harmful."
- *Barnes v. Barnes*, 190 Conn. 491, 494, 460 A.2d 1302 (1983). "[P]roper utilization of the motion for articulation serves to dispel any such ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal."

TEXTS & TREATISES:

- 8A ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE, FAMILY LAW & PRACTICE WITH FORMS (2d ed. 2000).
Chapter 52. Post-Judgment motions
§ 52.3. Motion for articulation or clarification
- WESLEY W. HORTON AND SUSAN M. CORMIER, CONNECTICUT RULES OF APPELLATE PROCEDURE (2002 ed.). Authors' Comments following §§ 66-5 and 66-7.
- COLIN C. TAIT AND ELIOT D. PRESCOTT, CONNECTICUT APPELLATE PRACTICE AND PROCEDURE (2000).
§ 6.8. Motion for rectification or articulation

- JEANINE M. DUMONT, PLEADING AND PRETRIAL PRACTICE: A DESKBOOK FOR CONNECTICUT LITIGATORS (1998 ed.).
Chapter XVI, Motions to set aside or open, reargue, correct, articulate and enforce settlements, and the accidental failure of suit statute
8. Motions to articulate (p. 157).

COMPILER:

Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560.

Table 1 Procedures under P.B. § 66-5 (Articulation)

Procedures CONN. PRACTICE BOOK § 66-5 (2004 ed.)	
Relief sought	Any motion filed pursuant to this section shall state with particularity the relief sought.
Copies Filed	"Except in cases where the trial court was a three judge court, an original and three copies of such motion shall be filed with the appellate clerk. Where the trial court was a three judge court, an original and five copies of such motion shall be filed."
Opposing parties	"Any other party may oppose the motion by filing an original and three or five copies of an opposition with the appellate clerk within ten days of the filing of the motion for rectification or articulation."
Superior Court	"The appellate clerk shall forward the motion for rectification or articulation and the opposition, if any, to the trial judge who decided, or presided over, the subject matter of the motion for rectification or articulation for a decision on the motion. If any party requests it and it is deemed necessary by the trial court, the trial court shall hold a hearing at which arguments may be heard, evidence taken or a stipulation of counsel received and approved. The trial court may make such corrections or additions as are necessary for the proper presentation of the issues raised or for the proper presentation of questions reserved. The trial judge shall file the decision on the motion with the appellate clerk."
Appellate review	"The sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on the motion filed pursuant to this section or any other correction or addition ordered by the trial court during the pendency of the appeal shall be by motion for review under Section 66-7."
Time for filing briefs	"Upon the filing of a timely motion pursuant to Section 66-1, the appellate clerk may extend the time for filing briefs until after the trial court has ruled on a motion made pursuant to this section or until a motion for review under Section 66-7 is decided."
Time limits and extension thereof	<p>Any motion for rectification or articulation shall be filed within thirty-five days after the delivery of the last portion of the transcripts or, if none, after the filing of the appeal, or, if no memorandum of decision was filed before the filing of the appeal, after the filing of the memorandum of decision. The thirty-five day deadline may be extended for good cause. No motion for rectification or articulation shall be filed after the filing of the appellant's brief except for good cause shown.</p> <p>A motion for further articulation may be filed by any party within twenty days after issuance of notice of the filing of an articulation by the trial judge. A motion for extension of time to file a motion for articulation shall be filed in accordance with Section 66-1.</p>

Table 2 Official Comments and History P.B. sec 66-5 (Articulation)

Official Comments and History	
September 1999	<p>“HISTORY: Prior to 2000, the first paragraph read ‘A motion seeking corrections in the transcript or the trial court record or seeking an articulation or further articulation of the decision of the trial court shall be called a motion for rectification or a motion for articulation, whichever is applicable. Any motion filed pursuant to this section shall state with particularity the relief sought. An original and three copies of such motion shall be filed with the appellate clerk. Any other party may oppose the motion by filing an original and three copies of an opposition with the appellate clerk within ten days of the filing of the motion for rectification or articulation.’</p> <p>The second paragraph, which includes the second and third sentences of the former first paragraph, was added at that time.” 61 Conn. L.J. 13C (Sept. 21, 1999). Also appears in 2000 CONN. PRACTICE BOOK 318 (Rev. of 1999).</p>
August 2002	<p>“COMMENTARY: The need for articulation may not appear until a party has read the transcripts or begun drafting the brief. The filing deadline provides time to read the transcript, conduct legal research, and begin drafting the brief so that a party can make this assessment. The practice lately, however, has been to order, sua sponte, that the first brief be filed 45 days after the first pre-argument conference. The purpose of such orders is to encourage settlement before the parties have invested substantial resources in writing a brief. If a party must make this investment in order to determine whether to file a motion for articulation, the benefit of the delayed deadline is lost.</p> <p>Although a party can affirmatively seek an extension of time to file a motion for articulation, doing so is a minor nuisance for the alert and, more significantly, a trap for the unwary, given the seriousness with which the courts treat an appellant’s obligation to perfect the record. Automatically advancing the deadline for articulation avoids unnecessary paperwork, and potentially, the preclusion of appellate review of issues.” 64 CONN. L.J. 5C (August 20, 2002). Also appears in 2003 CONN. PRACTICE BOOK 318 (Rev. of 1998), p. 371. .</p>

Figure 1 Motion for Articulation

APPELLATE COURT
STATE OF CONNECTICUT

A.C. NO. 10794	:	SUPERIOR COURT
KEYSTONE INSURANCE COMPANY	:	J.D. OF NEW HAVEN
VS.		AT NEW HAVEN
DEAN RAFFILE	:	NOVEMBER 15, 1991

MOTION FOR ARTICULATION

Pursuant to Section 66-5 of the Practice Book, the defendant Dean Raffile moves for an articulation of the trial court's decision on the amended application to vacate award of arbitrators and defendant's motion to confirm said award.

The court decided said application without articulation of the factual and legal basis for its opinion. It is impossible for defendant to ascertain the standard of review utilized by the trial court in its ruling, or the factual or legal basis for its decision granting the amended application to vacate award or sustaining objection to the motion to confirm award

1. **HISTORY OF CASE:** Application to vacate award of arbitrators in force-and-run uninsured motorist case, wherein the arbitrators awarded defendant Dean Raffile \$208,400.00 damages based on an assessment of damages in the amount of \$450,000.00, reduced by 50% comparative fault, and \$16,600.00 basic reparation benefits. Net award to claimant was \$208,400.00. Trial court decided the application to vacate and motion to confirm by one-word ("granted" and "sustained") rulings. Decision dated November 6, 1991 issued November 12, 1991. Appeal filed November 15, 1991.
2. **STATEMENT OF FACTS RELIED UPON:** It is not possible from the trial court's terse rulings to ascertain the standard of review utilized, or the factual or legal basis for the trial court's decision.
3. **LEGAL GROUNDS RELIED UPON:** This motion is filed pursuant to Section 4051 of the Practice Book.

THE DEFENDANT-APPELLANT,

Dean Raffile

Figure 2 Motion for Articulation

APPELLATE COURT

STATE OF CONNECTICUT

AC 16248 : SUPERIOR COURT
MARINA BORNEMANN : JUDICIAL DISTRICT OF NEW HAVEN
VS. : AT NEW HAVEN
RICHARD BORNEMANN : OCTOBER 25, 1996

MOTION FOR ARTICULATION

Pursuant to Practice Book § 66-5, the defendant-appellant, Richard Bornemann, timely¹ moves that the trial court (_____, J.) articulate its decision dissolving the marriage in the following ways:

1. With respect to the defendant Richard Bornemann, please state the factual basis for the trial court's finding that "both parties violated the pendente lite order . . . on the use of the funds that they each appropriated to themselves . . . (Transcript of Oral Decision, p. 6), that is the source of the funds referenced, and the manner and extent to which Mr. Bornemann allegedly violated the pendente lite order.
2. In its consideration of the financial orders rendered, please specify what "amounts of those funds" (Transcript of Oral Decision, p. 6), did the trial court find that each party had used in violation of the pendente lite order.
3. In finding that the defendant Richard Bornemann is "insignificantly underemployed" (Transcript of Oral Decision, p. 13), did the trial court consider the effect of the pendente lite hybrid nesting custody arrangement on the defendant's ability to obtain employment? If so, please state the factual basis for the trial court's finding as to the defendant's underemployment.
4. Please state the factual basis for the trial court's finding that the plaintiff Marina Bornemann is "insignificantly underemployed" (Transcript of Oral Decision, p. 13), and "underemployed for guideline purposes. . . ." (Transcript of Oral Decision, p. 32)

¹ The defendant has filed this motion for articulation within thirty five days from the date of receipt of the completed transcripts (September 26, 1996) provided for in Practice Book § 66-5.

5. Please state the factual underpinnings to the trial court's finding that "[t]he orders account perhaps for the difference in who blew how much [money] . . . (transcript of Oral Decision, p. 17.

6. In its division of the parties' assets, please state the value assigned by the trial court to the defendant's fourth flight of stock options, which was non-vested at the time of trial.

7. In its division of the parties' assets, please state the value assigned by the trial court to the defendant's fifth flight of stock options, which was non-vested at the time of trial.

8. Please state what contributions, if any, the plaintiff made to the acquisition or preservation of the unvested stock options which the defendant had to negotiate for during the pendente lite period as part of his termination agreement?

9. Please state what impact, if any, the trial court's finding as to the significant age difference between the parties had on its division of capital assets?

10. Please state the factual basis upon which the trial court found that the defendant had a continuing duty to support the plaintiff in its award of eighteen months of alimony in view of the following: (1) for the two year pendente lite period the plaintiff, by her own admission, made no attempt to obtain meaningful employment; (2) the short length of the marriage, pre-separation; and (3) the plaintiff's physical cohabitation, at no cost to her, with another man for the three and one-half days per week during the two year pendente lite period when she did not reside with the minor child in the marital residence.

11. Please state which statutory criteria in particular the trial court relied upon in its approximately fifty/fifty asset division.

BRIEF HISTORY OF THE CASE

After a contested custody trial, the court (_____, J.) entered judgment in this marital action. The court awarded joint legal custody of the minor child with no designation of either party as the primary parent. Neither party has appealed from this part of the decision. The defendant husband filed an appeal on the financial orders. The plaintiff thereafter applied for a stay pending appeal seeking a restoration of the pendente lite support orders. The trial court (_____, J.) granted the plaintiff's motion in part and ordered a pendente appeal alimony order of \$575.00 per week, an increase of \$175.00 per week over the alimony awarded after trial. The defendant has moved for review of the stay order.

STATEMENT OF FACTS RELIED UPON

Upon review of the transcripts ordered by the defendant- appellant read in conjunction with the oral memorandum of decision, it became clear that a written articulation of the trial court's oral decision is necessary as the transcripts do not set forth with particularly the trial court's full reasoning. Factual findings as well as legal conclusions must be articulated in order for the defendant-appellant to meet his responsibility, in accordance with Practice Book § 4061, to present an appropriate and adequate record for appellate review.

LEGAL GROUNDS RELIED UPON

The motion for articulation is filed pursuant to Practice Book § 4051. It is the defendant's responsibility, as the appellant, to present the court with an adequate record for appellate review. Aetna Life & Casualty Co. vs. Bulaong, 218 Conn. 51, 57 (1991); Practice Book § 4061. Such record can only be obtained through an articulation of the trial court's oral memorandum of decision. Until such articulation is forthcoming, the defendant cannot properly and adequately develop the legal and factual arguments in his brief.

Moreover, the issues presented by this appeal deserve fully to be addressed by the court. See, e.g., Double I Limited Partnership v. Planning and Zoning Commission, 218 Conn. 65, 84 n. 19 (1991) (court declined to address issue because of inadequate record review) ; Robert S. Weiss v. Mullins, 196 Conn. 614, 622 (1985) (same).

THE DEFENDANT-APPELLANT

RICHARD BORNEMANN

BY _____

Name
Firm
Street
City, State
Juris Number
FAX

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed on this date postage prepaid to:

Name

Figure 3 Memorandum of Decision RE Motion for Articulation

MEMORANDUM OF DECISION

RE MOTION FOR ARTICULATION

AC 16248	:	SUPERIOR COURT
MARINA BORNEMANN	:	JUDICIAL DISTRICT OF NEW HAVEN
VS.	:	AT NEW HAVEN
RICHARD BORNEMANN	:	NOVEMBER 25, 1996

The defendant-appellant, Richard Bornemann's Motion for Articulation is granted only as follows:

As to Requests 3 and 4, in the following manner.

The transcription of the Oral Memorandum of Decision, "Both parties are currently insignificantly under-employed," (p. 13, lines *14-15*) is incorrect, or, the Court misspoke. That sentence should properly read, and the Court articulates it to be replaced as follows:

"Both parties are currently significantly under-employed."

In this limited respect, the Motion for Articulation is granted, and all other requests to articulate within the motion are denied

_____, J.

NOTICE SENT: 12/9/96

CLERK, SUPERIOR COURT, NEW HAVEN

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Table 3 Unreported decisions, motion for articulation

Unreported Decisions	
<p><u>Charlesworth v. SBC/SNET Information Systems, Inc.</u>, 36 CONN. L. RPTR. 710 (May 10, 2004).</p>	<p>“‘There is no authority for a motion for articulation at the trial level.’ <i>Wolak v. Hair Club, Inc.</i>, Superior Court, judicial district of New Haven, Docket No. 359140 (October 24 1995, Licari, J.); see also <i>McLaughlin v. McLaughlin</i>, Superior Court , judicial district of Hartford, Docket No. FA 96 0713773 (January 21, 1999, Gruendel, J.).</p> <p>Accordingly, the motion is denied. “</p>
<p><u>Bieler v. Continental Insurance Co.</u>, No. CV02 0189454 S (Dec. 24, 2003), 36 Conn. L.Rptr. 248, 249, 2003 WL 23177484 (Conn. Super. 2003).</p>	<p>“On December 1, 2003 defendant Federal Insurance requested articulation of the court's order denying the motion for severance. In response to that motion the court finds that the defendant had not demonstrated to the court's satisfaction that good cause exists for the separate trial of these actions. The defendant has not brought to the court's attention any reason for reversing the order of Judge Mintz consolidating the cases for trial. Both actions involve the same event or occurrence, the same plaintiff and the same injuries. It is obvious that a consolidated trial will serve the interests of justice and of judicial economy. For the foregoing reasons, the court denied the motion for severance.”</p>
<p><u>Marquette v. Marquette</u>, No. FA 98 0163816 S (Feb. 21, 2001), 2001 WL 236853 (Conn. Super. 2001).</p>	<p>“A party seeking the clarification of a court decision must file a motion for articulation directed to the judge who rendered it. However, it is within the discretion of the trial court "to make such corrections or additions as are necessary for the proper presentation of the issues raised . . . or . . . reserved." Section 66-5 Connecticut Practice Book. (Emphasis added) A motion for articulation, by definition, implies that the court failed to state the basis for its decision on one or more points. However, if upon review of that decision, the court believes that is not the case, but that the decision would otherwise benefit by a clarification and/or correction, it lies within the power of the court to do so, even sua sponte.”</p>
<p><u>Samuels v. Samuels</u>, No. FA98-0414531 (Nov. 24, 1999), 2001 WL 649749 (Conn. Super. 2001).</p>	<p>“The plaintiff has filed a motion for articulation dated September 30, 1999 seeking to articulate the court order to the extent that it relates to the plaintiff's pendente lite obligation to make the monthly mortgage payment.”</p> <p>[cont'd]</p>

Unreported Decisions (cont'd)

<p><u>Benedetto v. Stamford Transit District</u>, No. SC 16204 (Nov. 17, 1999) 1999 WL 1081510 (Conn. Super. 2001).</p>	<p>“In their motion for articulation, the plaintiffs appear to criticize the court's decision on the grounds that: (1) it was only ‘one paragraph;’ (2) it stated that the motion for summary judgment was granted ‘in its entirety;’ (3) the court did not set forth the ‘factual and legal basis for its decision,’ but rather simply adopted the moving party's ‘factual or legal conclusions;’ and (4) the decision did not discuss the third and fourth claims made by J. R. Maintenance in its motion for summary judgment. The two claims were described by the plaintiffs as asserting a statute of limitations defense and that the direct claims were ‘inappropriate because the apportionment complaint was improper.’”</p>
<p><u>Popp v. Bacon</u>, CV 93 030 29 73 S, Judicial District of Fairfield at Bridgeport, 12 Conn. L. Repr. 137, 1994 WL 386009 (July 15, 1994).</p>	<p>“Since ‘[t]he denial of a motion for summary judgment is not ordinarily appealable because it is not a final judgment’; <u>Prishwalko v. Bob Thomas Ford, Inc.</u>, 33 Conn.App. 575, 589, 636 A.2d 1383 (1994); it is submitted that an articulation of the court's reasoning in denying the motion would serve no useful purpose.”</p>
<p><u>Braunstein & Todisco v. Bossom</u>, 9 CSCR 642, 1994 WL 260866 (June 7, 1994).</p>	<p>“It is therefore clear that a motion to articulate is proper only where the trial court's decision is appealable.”</p>
<p><u>Gretsch v. Housatonic Cable Vision Co.</u>, 8 Conn. Law Trib. No. 14, p. 13 (1982).</p>	<p>“No appeal has been taken in this case. Consequently, Section 3082 [now 66-5] of the Practice Book which pertains to rectification of appeal does not apply and is inappropriate.”</p>